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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**ARBITRATION PETITION No. 31 OF 2007**

M/s. Nikita Art Movies P. Ltd. .. Petitioner

Vs.

Sanjay Entertainment P. Ltd. Respondent

Ms. Seema Gupta, Advocate i/b A.M. Sarogi Bhide for the petitioner.

Mr. R. U. Singh, Advocate for the respondent.

**CORAM : D. G. KARNIK, J.**

**DATE : MARCH 8, 2007.**

PC :-

. Heard. Ms. Seema Gupta, learned counsel for the petitioner and Mr. Singh, learned counsel for the respondent.

2. By this petition under S. 9 of the Arbitration and Conciliation Act 1996 ( for short, the Arbitration Act ), the petitioner seeks an injunction restraining the respondent from releasing the film, titled "Hasina" (for short "film"). Under an agreement dated 5th April 2005, the respondent agreed to confer the distribution rights of the film to the

petitioner on the terms and conditions mentioned therein. One of the terms & conditions of the agreement was that the respondent would complete the production on or before 30th May 2005, with the usual force measure clause. It appears that the film could not be completed within the specified time. Therefore, by a letter dated 2nd September 2006, the petitioner informed the respondent that petitioner was no longer interested in the film and demanded return of Rs.6,31,724/-. As the respondent did not return the amount, the petitioner has filed this petition under S. 9 of the Arbitration Act, pending determination by arbitration of the dispute arising out of the agreement dated 5th April 2005.

3. It is true that by the agreement dated 5th April 2005, the petitioner has conferred the distribution rights on the petitioner. However, on account of the delay in production of the film, the petitioner gave up those rights and demanded back the money by his letter 2nd September 2006. The petitioner, therefore, cannot now claim any right in the

distributorship of the film nor prevent release of the film. His claim relates only to the money.

4. There is one more reason, why the injunction cannot be granted. By filing an affidavit in reply, the respondent has stated that the film has already been released. No rejoinder has been filed, denying this averment. As film has already been released, there is no question of granting injunction restraining release of the film. For there reasons, there is no merit in the petition.

Petition is therefore, dismissed.

Sd/-

**[ D.G. KARNIK, J.]**